

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

John T. Goff,)	CASE NO. 5: 10CV1240
)	
Petitioner,)	JUDGE PATRICIA A. GAUGHAN
)	
Vs.)	
)	
Robert Welch, Warden,)	<u>Memorandum of Opinion and Order</u>
)	
Respondent.)	

This matter is before the Court upon the Report and Recommendation of Magistrate Judge White, recommending denial of Petitioner's pending Petition for a Writ of *Habeas Corpus* pursuant to 28 U.S.C. § 2254 (Doc. 8). No objections to the Report and Recommendation have been filed. For the reasons stated below, the Report and Recommendation is ACCEPTED.

I. Standard of Review

Pursuant to Fed. R. Civ. P. 72(b) and 28 U.S.C. § 636, the district court reviews *de novo* those portions of a report of a magistrate judge to which a specific objection is made. The judge may accept, reject, or modify any proposed finding or recommendation. When no

objections to a report and recommendation are made, the Court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation. *See* Advisory Committee Notes 1983 Addition to Federal Rule of Civil Procedure 72.

II. Discussion

The pertinent background in this matter is set forth by the Magistrate Judge in his Report and Recommendation. After a jury trial, Petitioner was convicted of two counts of rape, two counts of sexual battery, and one count of child endangering in the Summit County Court of Common Pleas. Petitioner was sentenced to twenty years' imprisonment. The Court of Appeals affirmed Petitioner's conviction and sentence, and the Ohio Supreme Court declined to accept his case for review.

On June 2, 2010, Petitioner, *pro se*, filed the present *habeas* petition, alleging four constitutional grounds for relief.¹ In his R&R, Magistrate Judge White analyzed Petitioner's asserted grounds and determined that all of Petitioner's claims fail to state a claim upon which relief may be granted. In addition, the Magistrate Judge *sua sponte* determined that the *habeas* petition was untimely and therefore also barred by the Antiterrorism and Effective Death Penalty Act of 1996, 28 U.S.C. § 2244(d)(1). For both reasons, the Magistrate Judge recommended that the Court dismiss with prejudice Petitioner's *habeas* petition.

The Court has reviewed the Magistrate Judge's Report and Recommendation and finds no clear error in the Magistrate Judge's findings and determinations.

III. Conclusion

¹ Respondent subsequently filed a motion to dismiss the *habeas* petition pursuant to Fed. R. Civ. P. 12(b)(6)(Doc. 4), to which Petitioner responded (Doc. 5).

Accordingly, the Report and Recommendation of Magistrate Judge White is hereby accepted, and the findings and conclusions of the Magistrate Judge are incorporated herein by reference.

The petition for a writ of *habeas corpus* is hereby dismissed. Further, for the reasons stated herein and in the Report and Recommendation, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith, and there is no basis upon which to issue a certificate of appealability. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

IT IS SO ORDERED.

Dated: <u>8/26/11</u>	<u>/s/Patricia A. Gaughan</u> PATRICIA A. GAUGHAN United States District Judge
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